

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

BERTHA S. PAINTER,)
Plaintiff,)
)
v.) No. 3:10-CV-424
) (Phillips)
UNION COUNTY BOARD OF)
EDUCATION,)
Defendant.)

ORDER

Plaintiff Bertha Painter brings this action under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 49-2-201, et seq., to recover overtime compensation from defendant Union County Board of Education. Plaintiff also asserts that she was terminated by defendant for complaining of deductions from her pay and that of others in violation of the FLSA. Plaintiff further asserts claims for breach of contract and wrongful termination under state law. Currently pending is the motion to dismiss or for summary judgment of defendant Union County Board of Education.

Upon careful review of the record, the court finds that there are multiple issues of material fact which preclude summary judgment including: (1) whether plaintiff is entitled to overtime compensation under the FLSA; (2) whether defendant retaliated against plaintiff for engaging in protected activity under the FLSA; and (3) whether defendant's

stated reasons for not renewing plaintiff's employment were a pretext for retaliation for plaintiff's protected activity under the FLSA.

In her response to defendant's summary judgment motion, plaintiff states that after completion of discovery and further investigation, she does not object to defendant's motion to dismiss her state law claims for wrongful termination, breach of contract, and failure to provide notice of charges and a hearing prior to her termination.

Accordingly, Union County Board of Education's motion for summary judgment [Docs. 19, 24] is hereby **GRANT IN PART AND DENIED IN PART**. The motion is **GRANTED** as to plaintiff's state law claims for wrongful termination, breach of contract and failure to provide notice of charges and a hearing prior to her termination; the motion is **DENIED** as to plaintiff's claims under the FLSA. The parties will prepare this case for trial.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips

United States District Judge